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No. 19]

NEW DELHI, SATURDAY, AUGUST 11, 1990/SRAVANA 20, 1912

इस भाग में भिन्न पृष्ठ संख्या को जानी हुई जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (iii)

PART II—Section 3—Sub-section (iii)

(केन्द्र राज्य क्षेत्र प्रशासनों को छोड़कर) केन्द्रीय अधिकारियों द्वारा जारी किए गए आदेश और अधिसूचनाएं
Orders and Notifications issued by Central Authorities (other than Administrations of Union
Territories)

भारत निर्वाचन आयोग

नई दिल्ली, 16 जुलाई, 1990

आ.अ. 41—लोक प्रतिनिधित्व अधिनियम, 1951
(1951 का 43) की धारा 106 के अन्तर्गण में, निर्वाचन
योग, 1990 की निर्वाचन अर्जी संख्या 2/90 में पंजाब
और हरियाणा उच्च न्यायालय, चंडीगढ़ के तारीख 30 अप्रैल,
1990 का निर्णय पुनर्द्वारा प्रकाशित करना है।

(संलग्न आदेश अंग्रेजी में छपे हैं)

[संख्या 82/जी.ए.नो. म./2/90]

आदेश में

एल.एच. फास्की, अवसर सचिव

ELECTION COMMISSION OF INDIA

New Delhi, the 16th July, 1990

O.N. 41.—In pursuance of Section 106 of the
Representation of the People Act, 1951 (43 of 1951),
the Election Commission hereby publishes the Judge-

ment dated the 30th April, 1990 of the High Court
of Punjab & Haryana at Chandigarh, in Election
Petition No. 2 of 1990.

IN THE HIGH COURT OF PUNJAB &
HARYANA AT CHANDIGARH
ELECTION PETITION NO. 2 OF 1990

1. Shri Sawraj Singh s/o Shri Shubh Ram Nehra
r/o Park Colony Bhiwani
Tehsil & Distt Bhiwani (Haryana)
2. Shri Suresh Kumar s/o Sh. Ram Dutt
r/o Lahlaa Teh & Distt Bhiwani
(Haryana).
3. Shri Shamsher Singh s/o Sh. Dalip Singh
r/o V. & P.O. Baliyali Tehsil
Bawani Kheta Distt Bhiwani (Haryana).
4. Shri Ram Kumar s/o Shri Arjun,
r/o V. & P.O. Mithathal,
Distt. Bhiwani (Haryana).
5. Shri Roshan Lal s/o Sh. Bani Singh
r/o Dadri Gate Bhiwani Teh. & Distt. Bhiwani
(Haryana).

6. Shri Surender Singh s/o Sh. Dhan Singh
40, Vijai Nagar, Bhiwani,
Teh. & Distt. Bhiwani (Haryana).

7. Shri Rajvir Singh s/o Sh. Roop Ram
r/o V.&P.O. Leghan Bhanan,
Teh. & Distt. Bhiwani (Haryana).

Petitioner

Vs.

1. Ch. Bansil Lal s/o Shri Mohar Singh
r/o Vijai Nagar Colony Bhiwani
Tehsil & Distt. Bhiwani (Haryana)

2. Ch. Dharam Vir s/o Shri Bhalle Ram
r/o V. & P.O. Talu Tehsil Bawani Khera,
Distt. Bhiwani (Haryana).

(Struck off vide order dated 8-2-90)

Respondents.

Election Petition under the Provisions of the Part 6 Chapter 2 Sections 38, 80 to 84, 100 of the Representation of People Act 1951 praying that that this Hon'ble Court may be pleased to declare the election of the respondent No. 1 to be void and award the cost of this election petition to the petitioners.

Dated the 30th April 1990

PRESENT

THE HON'BLE MR. JUSTICE S.S. SODHI

For the Petitioner : Mr. S. S. Goripuria Advocate.

For the Respondent : Mr. J. N. Kaushal Sr. Advocate.

(Mr. H. S. Hooda Sr. Advocate and
Mr. R. S. Chahar Advocate with him)

JUDGEMENT

S. S. Sodhi, J.

The challenge here is to the election of Ch. Bansil Lal to the Lok Sabha from the Bhiwani Parliamentary Constituency in the recent General Election held in November, 1989.

There were as many as 129 candidates who had filed nominations for contesting the election to Parliament from the Bhiwani Constituency. Later seven withdrew leaving 122 candidates in the field. Amongst them being the seven petitioners, besides, of course, the respondent Ch. Bansil Lal and his main rival Ch. Dharam Vir who was, however, subsequently deleted from the array of respondents.

As per the case set up in the petition on November 2, 1989, which was the last date for the withdrawal of nominations, there were only 35 symbols notified by the Election Commission of India and symbols were thus allotted to only 35 candidates on that day while the others including the petitioners were allotted their symbols a few days later, namely : on November 8, 1989 and what is more, their symbols

were not published in the gazette notification till November 21, 1989, that is, a day before polling day—November 22, 1989.

A reading of the petition would show that the election of the respondent—Ch. Bansil Lal has been sought to be got declared void in terms of Section 100(1)(d)(iv) of the Representation of People Act 1951 (hereinafter referred to as 'the Act') on the ground (P.3.) that his election had been materially affected by non-compliance with the provisions of the Election Symbols (Reservations and Allotment) Order, 1968. In other words, delay in the allocation of symbols to the petitioners emerges as the grounds for impeaching the election of the returned candidate.

The petition filed in this behalf, however, alleges no cause of action on account of the omission on the part of the petitioners to plead material facts as required by the provisions of Section 83 of the Act thereby rendering it wholly unsustainable.

The case, as pleaded by the petitioners is that their prospects for the election were jeopardized by the delay on the part of the Election Commission in allotting them symbols and they could not therefore canvass and project their symbols against their names and this had materially affected the result of the returned candidate to their detriment. Further, that in the absence of the symbols being allotted to them on November 2, 1989, their supporters and workers got the impression that they were not serious in contesting the election and in frustration they started campaigning instead for the respondents. The main averment in paragraph 18 of the petition which is reproduced hereunder :—

"That the authorities conducting election committed various illegalities during the election process which adversely affected aforesaid election and the following facts would show that entire election in 8-Bhiwani Parliamentary Constituency has been conducted in violation of various mandatory provisions of the (P4) Act, the Rules and Symbols Allotment Order, 1968 and the election has been conducted in an arbitrary and high handedness manner violating the fundamental right of equality before the law guaranteed under Article 14 of the Constitution of India. The entire procedure adopted by the authorities concerned conducting election suffered from the defect of non-compliance of the mandatory provisions of the Act, i.e. Section 38(1 and 2) read with the rules 5, 8 and 10 of the Rules Form 7-A prescribed under Rule 10(1) of the Rules and Paragraph 12 and 17 of the Election Symbols (Reservation and Allotment) Order, 1968 and other procedure prescribed under the Act and the Election Rules."

What deserves pointed mention is the reference here to "the following facts" and the failure to spell them out in this paragraph or anywhere else in the petition, which is indeed conspicuous and no doubt also a matter of material significance. All that

follows is merely paragraph 30(d) which reads as under :—

“That the non-allotment of the election symbols to the petitioners by the election conducting authorities in time materially effected the result of the election so far as it concerns the returned candidate.”

The omission on the part of the petitioner to spell out “facts” adverted to in paragraph 18 of the petition has its own tale to tell.

(P.5) It is now well-settled that the provisions of Section 83 of the Act are mandatory and as explained by Hidayatullah, C.J. in *Samant N. Balakrishna etc. vs. George Fernandes & Ors.* A.I.R. 1969 Supreme Court 1201, this Section 83 requires first a concise statement of material facts and then the fullest possible particulars. Material facts being facts necessary to formulate a complete cause of action and omission of a single material fact, it was observed, leads to an incomplete cause of action and the statement of claim becomes bad. The function of particulars, on the other hand, is to present as full a picture of the cause of action with such further information in detail as to make the opposite party understand the case he will have to meet. It was pointed out that there may be some overlapping between material facts and particulars, but these two are quite distinct. Further it was observed that a petition which merely cites the Section cannot be said to disclose a cause of action.

The occasion to consider the provisions of Section 83 of the Act also arose in *Hardwar Lal vs. Kanwal Singh* A.I.R. 1972 Supreme Court 515, where it was observed that material facts were facts which if established would give the petitioner the relief asked for. In this case, the corrupt practice alleged against the returned candidate was founded upon the plea that he had produced and obtained or attempted to procure and obtain assistance of government servants for the furtherance of his prospects in the election by writing letters to them soliciting their help. In the petition, dates of the letters, their scripts and the persons to whom they were addressed, were given but no more. It was (P6) held that these were not material facts constituting a cause of action as necessary particulars as to the nature of the assistance, the time and place where it was sought from each of the persons concerned had not been furnished.

Seen in this light there can be no escape from the conclusion that the petition here falls far short of meeting the requirements of Section 83 of the Act. Words of the relevant Section of the Act and of the 1968 Rules regarding allocation of symbols have no doubt been incorporated, but the material facts and particulars with regard to them are conspicuous by their absence. The other limb of the infirmities attaching to the petition is founded upon the further requirement that the election of the returned candidate must be shown to have been materially affected by the ground on which his election is sought to be set aside. In dealing with this matter, it would be pertinent to note the number of votes polled by the petitioners and the returned candidate. This position being as under :—

Petitioner	Votes
1. Sawraj Singh	30
2. Suresh Kumar	92

3. Shamsheer Singh	180
4. Ram Kumar	34
5. Roshan Lal	98
6. Surinder Singh	16
7. Raj Vir Singh	81

Total 381

Respondent
Ch. Bansi Lal 3,57,325

Further, the returned candidate—Ch. Bansi Lal admittedly won the election by over 1,90,000 votes.

(P7). The wide disparity in the number of votes cast in favour of the petitioners as compared to those for the returned candidate clearly detracts from any inference of the election of the returned candidate having been in any manner materially affected by the matters alleged in the petition. It will be seen that whereas all the seven candidates put together could poll only about 700 votes, those obtained by the returned candidate were over three-and-a-half lakhs.

Such thus being the situation, there can be no manner of doubt that respondent has no case to answer as the petition discloses no cause of action and it cannot therefore be sustained. Rather, it must be branded as wholly frivolous and without basis. This election petition is accordingly hereby dismissed and keeping in view the circumstances, as narrated with Rs. 10,000 as costs.

April 30, 1990.

Sd/-

S. S. SODHI, Judge.

[No. 82/HN-HP/2/90]

By Order

L. H. FARUQI, Under Secy.

नई दिल्ली, 20 जुलाई, 1990

या.या. 42—लोक प्रतिनिधित्व अधिनियम, 1950 (1950 का 43) की धारा 13क की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, भारत निर्वाचन प्रणाली, दिल्ली प्रशासन के परामर्श में श्री जी.के. बट्टाचार्य, एम्.एस. के स्थान पर श्री रमेश चन्द्र आर्.ए.एस. या.या. ब्रिटीकर, को उनके कार्य भार सम्भालने की तारीख से अगले आदेशों तक दिल्ली संघ राज्य क्षेत्र के मुख्य निर्वाचन अधिकारी के रूप में पदद्वारा नामनिर्देशित करना है।

[सं. 154/दिल्ली 90]

New Delhi, the 20th July, 1990

O.N. 42.—In exercise of the powers conferred by sub-section (1) of section 13A of the Representation of the People Act, 1950 (43 of 1950), the Election Commission of India, in consultation with the Delhi Administration hereby nominates Shri Ramesh Chandra, IAS Commissioner, Sales Tax, Delhi Administration, as the Chief Electoral Officer for the Union Territory of Delhi with effect from the date he takes over charge and until further orders vice Shri G. K. Battacharya, IAS.

[No. 154 D/190]

नई दिल्ली, 23 जुलाई, 1990

आ.प्र. 43.—लोक प्रतिनिधित्व अधिनियम, 1950 (1950 का 43) की धारा 13 के की व्यवस्था (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत निर्वाचन आयोग, आन्ध्र प्रदेश सरकार के परामर्श से श्री के.एम. कुप्पु राव, आई.ए.एस. के स्थान पर श्री आर. कुप्पु राव, उपायुक्त और प्रबंध निदेशक आन्ध्र प्रदेश स्टेट, वेयर हाउसिंग कॉर्पोरेशन को उनके कार्यभार सम्भालना की तारीख से यवने अवधि तक आन्ध्र प्रदेश के मुख्य निर्वाचन अधिकारी के रूप में पदद्वारा नामनिर्देशित करता है।

[सं. 154/आन्ध्र प्रदेश/90]

आदेश में,
के.पी.जी. कुट्टी, सचिव

New Delhi, the 23rd July, 1990

O.N. 43.—In exercise of the powers conferred by sub-section (1) of Section 13A of the Representation of the People Act, 1950 (43 of 1950), the Election Commission of India, in consultation with the Government of Andhra Pradesh hereby nominates Shri R. Kuppu Rao, Vice-Chairman & Managing Director, Andhra Pradesh State Warehousing Corporation, as the Chief Electoral Officer for the State of Andhra Pradesh with effect from the date he takes over charge and until further orders vice Shri K. M. Ahmad, IAS.

[No. 154/AP/90]

By Order,

K. P. G. KUTTY, Secy.

नई दिल्ली, 24 जुलाई, 1990

आ.प्र. 44.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, निर्वाचन आयोग 1986 की निर्वाचन अर्जी सं. 1 में इलाहाबाद उच्च न्यायालय, इलाहाबाद के तारीख 9 फरवरी, 1990 के निर्णय को पदद्वारा प्रकाशित करता है।

(संलग्न निर्णय अंग्रेजी में छापे हैं)

[सं. 82/उ० प्र०-लो० सं०/1/86]

New Delhi, the 24th July, 1990

O.N. 44.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the judgement dated the 9th February, 1990 of the High Court of Judicature at Allahabad in Election Petition No. 1 of 1986.

IN THE HIGH COURT OF JUDICATURE AT
ALLAHABAD CIVIL SIDE
ORIGINAL JURISDICTION

Dated Allahabad the 9-2-1990

PRESENT :

The Hon'ble S. R. Bhargava..... Judge
Election Petition No. 1 of 1986.

Ram Bilash Paswan Appellant

Versus

Smt. Meera Kumari Respondent.

ORDER ON THE ORDER SHEET

This case has been listed several times but none has appeared for petitioner fresh elections to Lok Sabha has taken place and come Lok Sabha has been constitutional. It appear that petitioner is not interested in pressing this petition. Shri Ramanul Pandey appear for Respondent.

Petition is dismissed in default. Security be refunded to petitioner.

Dated 9-2-1990

Sd/- S. R. B.

[No. 82/UP-HP/1/86]

नई दिल्ली, 27 जुलाई, 1990

आ.प्र. 45.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, निर्वाचन आयोग 1985 की निर्वाचन अर्जी सं. 5 में इलाहाबाद उच्च न्यायालय, इलाहाबाद के तारीख 9-12-1990 के निर्णय को पदद्वारा प्रकाशित करता है।

(संलग्न निर्णय अंग्रेजी में छापे हैं)

[सं. 82/उ० प्र०-लो० सं०/5/85/(इला.)]

आदेश में,

एम.के. पाण्डे, अवसर सचिव

New Delhi, the 27th July, 1990

O.N. 45.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951) the Election Commission hereby publishes the judgement dated the 9-2-1990 of the High Court of Judicature at Allahabad in Election Petition No: 5 of 1985.

IN THE HIGH COURT OF JUDICATURE AT
ALLAHABAD CIVIL SIDE
ORIGINAL JURISDICTION

Dated Allahabad the 9-2-1990

PRESENT :

The Hon'ble Dr. R. R. Misra..... Judge
Election Petition No. 5 of 1985.

Suresh Yadav Appellant

Versus

Santosh Kumar Singh & Others Respondents

BY THE COURT

List has been revised. No body appears to press in petition. This petition is accordingly dismissed for default.

Dated 9-2-1990.

Sd/- Dr. R. R. M.

[No. 82/UP-HP/5/85(All.)]

By Order,

S. K. PANDEY, Under Secy.